

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:11-cr-00288-MOC

UNITED STATES OF AMERICA,)
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)
)
Vs.)
)
)
LUIS FERNANDO GONZALES,)
)
)
Defendant(s).)

THIS MATTER is before the court on the Order of limited remand following an indicative ruling by this court. United States v. Gonzales, No. 13-4058 (4th Cir. March 13, 2013). In that Order, the Court of Appeals for the Fourth Circuit remanded this “case to the district court for the limited purpose of ruling on the defendant’s motion to reconsider.” Id. at 2.

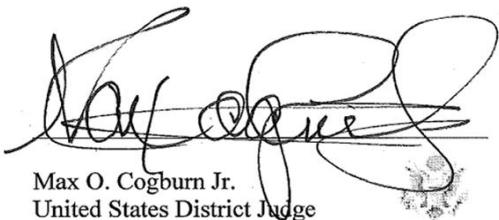
The court will, therefore, calendar defendant’s Motion to Reconsider, which is implicitly contained within his Motion for Indicative Ruling (#73). To recap, on November 27, 2012, this court sentenced defendant at Offense Level 28 and Criminal History Category II to 87 months imprisonment, which was at the low end of the advisory guidelines range. Judgment was entered January 17, 2013, and defendant promptly filed a Notice of Appeal. Defendant contends that six days after judgment was entered, the North Carolina General Court of Justice, District Court Division, vacated a conviction which had moved his Criminal History from Category I to Category II. Defendant argues that such now-vacated conviction not only elevated the advisory guidelines range, it also prevented application of the safety-valve provisions found under U.S.S.G. §5C1.2. The parties are advised that if the court grants the Motion to Reconsider at such hearing, it plans to move immediately into resentencing unless good reasons can be shown

for scheduling such proceeding for a later date. See United States v. Pettiford, 612 F.3d 270 (4th Cir. 2010).

ORDER

IT IS, THEREFORE, ORDERED that defendant's Motion to Reconsider, contained within the Motion for Indicative Ruling (#73), is **CALENDARED** for hearing on March 28, 2013, at 11 a.m.

Signed: March 18, 2013



Max O. Cogburn Jr.
United States District Judge